

Wage and Hour Division, Labor

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business, the weekly limitation on the maximum number of hours which may be worked shall be increased by 8 hours for each such holiday but in no event shall the 40-hour limitation be exceeded. (Note: School is considered to be in session for a student attending summer school.) Whenever a full-time student is employed for more than 20 hours in any workweek in conformance with this paragraph, the employer shall note in his/her payroll records that school was not in session during all or part of that workweek or the student was in his/her summer vacation.

(k) Neither oppressive child labor as defined in section 3(1) of the Act and regulations issued under the Act nor any other employment in violation of a Federal, State or local child labor law or ordinance shall come within the terms of any certificate issued under this subpart.

(l) Full-time students shall be employed at subminimum wages under this subpart only outside of their school hours, *i.e.*, only outside of the scheduled hours of instruction of the individual student, or, in the case of agriculture, only outside of school hours for the school district where the employee is living while so employed, if the employee is under 16 years of age.

(m) No full-time student shall be hired under a full-time student certificate while abnormal labor conditions, such as a strike or lockout, exist at the establishment or farm.

(n) No provision of any full-time student certificate shall excuse non-compliance with higher standards applicable to full-time students which may be established under the Walsh-Healey Public Contracts Act or any other Federal law, State law, local ordinance, or union or other agreement. Thus, certificates issued under this law have no application to employment under the Service Contract Act.

(o) No full-time student certificate shall apply to any employee to whom a certificate issued under section 14 (a) or (c) of the Act has application.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975, as amended at 42 FR 58745, Nov. 11, 1977]

§ 519.7 Records to be kept.

(a) The employer shall designate each worker employed as a full-time student under a full-time student certificate at subminimum wages, as provided under part 516 of this chapter.

(b)(1) In addition to the records required under part 516 of this chapter and this subpart, the employer shall keep the records specified in paragraph (b) (2) and (3) of this section specifically relating to full-time students employed at subminimum wages.

(2) The employer shall obtain at the time of hiring and keep in his records information from the school attended that the employee receives primarily daytime instruction at the physical location of the school in accordance with the school's accepted definition of a full-time student. During a period between attendance at different schools not longer than the usual summer vacation, a certificate from the school next to be attended that the student has been accepted as a full-time student will satisfy the requirements of this paragraph (b)(2).

(3) The employer operating any farm or retail or service establishment shall maintain records of the monthly hours of employment of full-time students at subminimum wages and of the total hours of employment during the month of all employees in the establishment except for those employed in agriculture who come within one of the other exemptions from the minimum wage provisions of the Act.

(c) The records required in this section, including a copy of any full-time student certificate issued, shall be kept for a period of 3 years at the place and made available for inspection, both as provided in part 516 of this chapter.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

§ 519.8 Amendment or replacement of a full-time student certificate.

In the absence of an objection by the employer (which may be resolved in the manner provided in part 528 of this chapter), the authorized officer upon his/her own motion may amend the provisions of a certificate when it is necessary by reason of the amendment of these regulations, or may withdraw

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a certificate and issue a replacement certificate when necessary to correct omissions or apparent defects in the original certificate.

§519.9 Reconsideration and review.

(a) Within 15 days after being informed of a denial of an application for a full-time student certificate or within 45 days after FEDERAL REGISTER publication of a statement of the terms of the certificate granted (subsequent to April 30, 1976, within 60 days after a certificate is granted), any person aggrieved by the action of an authorized officer in denying or granting a certificate may:

(1) File a written request for reconsideration thereof by the authorized officer who made the decision in the first instance, or

(2) File with the Administrator a written request for review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsideration determination of an authorized officer may, within 15 days after such determination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, the authorized officer or the Administrator may, to the extent he/she deems it appropriate, afford other interested persons an opportunity to present data, views, or argument.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

Subpart B—Institutions of Higher Education

§519.11 Applicability of the regulations in this subpart.

(a) *Statutory provisions.* Under section 14 of the Fair Labor Standards Act of 1938, as amended, and the authority

and responsibility delegated to him/her by the Secretary of Labor (36 FR 8755) and by the Assistant Secretary for Employment Standards (39 FR 33841), the Administrator of the Wage and Hour Division is authorized and directed, to the extent necessary in order to prevent curtailment of opportunities for employment, to provide by regulation or order for the employment, under certificates, of full-time students in institutions of higher education. That section contains provisions requiring a wage rate in such certificates of not less than 85 percent of the minimum wage applicable under section 6 of the Act, limiting weekly hours of employment, stipulating compliance with the applicable child-labor standards, and safeguarding against the reduction of the full-time employment opportunities of employees other than full-time students employed under certificates.

(b) *Source of limitations.* Some of the limitations expressed in this subpart are specifically required in section 14(b) of the Act. The other limitations implement the provisions relating to employment opportunities, *i.e.*, the “extent necessary in order to prevent curtailment of opportunities for employment” and the requirement that the regulations shall “prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by” section 14(b) of the Act is applicable.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

§519.12 Definitions.

(a) *Full-time students.* A *full-time student* for the purpose of this subpart is defined as one who meets the accepted definition of a full-time student of the institution of higher education which employs him/her. A full-time student retains that status during the student’s Christmas, summer and other vacations, even when a student is taking one or more courses during his/her summer or other vacation. The phrase in section 14(b) of the statute “regardless of age but in compliance with applicable child labor laws”, among other things restricts the employment in an